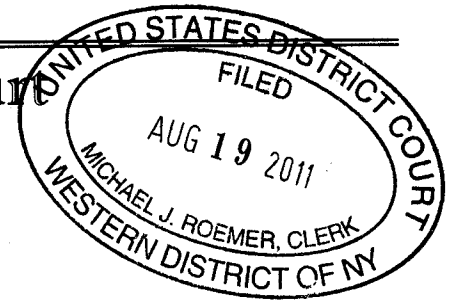


United States District Court
for the
Western District of New York



United States of America)

v.)

Case No. 11-M-1095)

ROGER LUCZKOWIAK)*Defendant*

CRIMINAL COMPLAINT (AMENDED)

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between on or about April 16, 2011, and on or about June 1, 2011, in the Western District of New York, the defendant did:

- (1) knowingly possess any film, videotape, computer disk, or any other material that contains an image of child pornography that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

all in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

☒ Continued on the attached sheet.

Brian M. Kulp
Complainant's signature

Brian M. Kulp, Special Agent, DHS-HSI
Printed name and title

Sworn to before me and signed in my presence.

Date: August 19, 2011

Jeremiah J. McCarthy
Judge's signature

City and State: Buffalo, New York

HONORABLE JEREMIAH J. MCCARTHY, USMJ
Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, **Brian M. Kulp**, being duly sworn, depose and say:

1. I am a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations (HSI). I have been employed as a Special Agent since May of 2002. I am currently assigned to the HSI Special Agent in Charge in Buffalo, New York. As part of my daily duties, I investigate crimes involving child exploitation and child pornography, including violations pertaining to the production, distribution, transportation, receipt, and possession of child pornography, in violation of Title 18, United States Code, Sections 2251 and 2252A. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography in various forms of media including computer media.

2. I make this affidavit in support of a criminal complaint charging **ROGER LUCZKOWIAK** of Dunkirk, NY, with violating Title 18, United States Code, Section 2252A(a)(5)(B).

3. The information in this affidavit is based upon my personal knowledge and upon information provided to me by law enforcement officers and others. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that **ROGER LUCZKOWIAK** ("LUCZKOWIAK") did knowingly violate Title 18, United States Code, Section 2252A(a)(5)(B).
4. On May 31, 2011, the Dunkirk City Court Judge Walter Drag issued a state search warrant for LUCZKOWIAK's residence authorizing law enforcement officers to search for evidence of child pornography. On June 1, 2011, officers with the Dunkirk Police Department executed that search warrant and seized multiple items of electronic equipment.
5. On June 15, 2011, Dunkirk Police Detective Mark Mathews submitted a Seagate external hard drive and Hewlett Packard Desktop computer, both of which were seized during the search warrant at LUCZKOWIAK's residence, to the Regional Computer Forensic Laboratory (RCFL) for examination.
6. The forensic examination of the defendant's Hewlett Packard

computer Model p6653W, serial number 4CE0331NHB, and manufactured in Thailand, yielded multiple images and videos of child pornography. RCFL Forensic Examiner Robert Kosakowski located visual depictions of minors engaged in sexually explicit conduct. Among the files on LUCZKOWIAK's Hewlett Packard computer were two videos revealing evidence of self-production of child pornography.

7. These two videos depict an adult male, which was later determined to be LUCZKOWIAK, having oral sex performed on him by a minor victim. A tattoo is visible is on the back of the right hand of the adult male in these videos. Both of these videos contain audio of LUCZKOWIAK talking to and giving instruction to the minor victim. Images were also discovered from the computer which depicts the same minor victim being penetrated by a finger and a foreign sexual object. Directly behind the victim in these images is LUCZKOWIAK.
8. On July 21, 2011, Detective Mathews interviewed the 6 year old victim depicted in the above videos and the victim's mother. During this interview, the victim provided full disclosure of the victim's repeated sexual abuse by LUCZKOWIAK. The mother identified the tattoo on the subject's right hand as the one on LUCZKOWIAK'S hand.

9. On August 17, 2011, your affiant contacted the Dunkirk Police Department and was informed of the above findings.

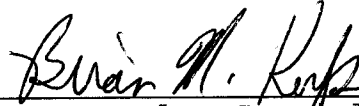
10. On August 18, 2011, your affiant viewed the images and videos discovered on the Hewlett Packard computer, and I believe that they constitute child pornography as defined in 18 United States Code, Section 2256. Some of the images and videos are described as follows:

- a. A video titled "Video 1.wmv" which depicts a minor victim performing oral sex on an adult male. During the video, the adult male talks and gives instruction to the victim. In the video, a tattoo is clearly visible on one of the adult male's hand.
- b. A video titled "Video 2.wmv" which depicts the same victim performing oral sex on the same adult male. During the video, the adult male again talks and gives instruction to the victim. In this video, the same tattoo is clearly visible on one of the adult male's hands.
- c. An image depicting a naked victim laying down being penetrated by a finger of an adult male, who is in the background of the image.
- d. An image depicting a naked victim laying down being penetrated by a foreign sexual object. In the background of this image is the same adult male holding the foreign sexual object.

11. On August 18, 2011, your affiant reviewed metadata associated with the two videos described above, which indicates create dates of April 16, 2011 (Saturday) and April 17, 2011 (Sunday) for the two videos. The victim's mother indicted that LUCZKOWIAK's birthday was April 16, 2011, and

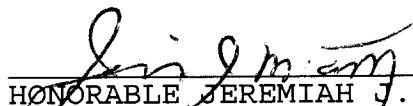
that he had access to the victim over that weekend.

12. Based upon the foregoing, I respectfully submit that there is probable cause to believe that **ROGER LUCZKOWIAK** has violated Title 18, United States Code, Section 2252A(a)(5)(B).



Brian M. Kulp, Special Agent
Department of Homeland Security

Sworn and subscribed to before
me this 19th day of August 2011.



HONORABLE JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE